

1 MR. SPITZER: I'm confused, Your Honor. Accuracy
2 in terms of what? These statements reflect merely Mr.
3 Nourain's state of mind. The first word on page 8 says they
4 were mistaken. So are you asking accuracy with respect to
5 Mr. Behrooz's

6 MR. BECKNER: Withdrawn.

7 MR. SPITZER: mistaken impressions?

8 MR. BECKNER: Withdrawn.

9 MR. SPITZER: It's gobbledygook, Mr. Beckner.

10 JUDGE SIPPEL: I'll sustain the objection.

11 MR. BECKNER: I withdrew the question.

12 BY MR. BECKNER:

13 Q Mr. Barr did you discuss with Mr. Lehmkuhl whether
14 or not there was, based on what Mr. Lehmkuhl knew, whether
15 or not there was a factual basis for Mr. Nourain to claim
16 that he had either of the assumptions identified on page
17 008?

18 JUDGE SIPPEL: Do you understand that question?

19 THE WITNESS: Not really.

20 JUDGE SIPPEL: I'm not -- still not sure where
21 you're going to go with this. Where it's taking us. He's
22 testified that this was a joint effort. And he testified
23 that he's relying on Mr. Nourain for some of his
24 information.

25 If you want to probe him in terms of who else he

1 used as a resource, now that might shed some light on this,
2 but I just don't --, you know, unless you have something
3 specific to ask him about this document we better look at
4 something else.

5 BY MR. BECKNER:

6 Q Did you discuss the content of the document with
7 Mr. Lehmkuhl sir?

8 A I don't recall. I had numerous conversations with
9 the people at the Constantine firm. I had conversations
10 with the people at the Ginsberg firm.

11 JUDGE SIPPEL: Let me ask this question. This is
12 June 16 letter that you're testifying to. And you spent
13 considerable amount of time on the record testifying to
14 the -- to the May -- to the May 17 disclosures. That is in
15 the surreply.

16 Had you -- had you gained more information on June
17 16th, then you had on May 17th?

18 THE WITNESS: It's possible, yes. This document
19 was prepared in response to I think some particular
20 questions that Mr. Hayden had posed.

21 JUDGE SIPPEL: Well can you identify any of the
22 new information that you had learned? Can you identify --

23 THE WITNESS: Well for example, I'm sorry.

24 JUDGE SIPPEL: Go ahead. You know what I'm asking
25 so go ahead.

1 THE WITNESS: I don't believe I knew at -- May
2 15th the exact date that service had been commenced to some
3 of these locations.

4 JUDGE SIPPEL: So you're on page 008?

5 THE WITNESS: Yes, I am, Your Honor.

6 JUDGE SIPPEL: And -- and but you're not sure
7 where that information -- where you got that more specific
8 information what your sources were?

9 THE WITNESS: This not specifically it came from
10 Liberty or -- people from the Constantine firm, I'm not sure
11 which. But I don't believe I personally had that
12 information in front of me at the time the May 15th item was
13 prepared.

14 JUDGE SIPPEL: Were you getting --

15 THE WITNESS: May 17th.

16 JUDGE SIPPEL: Is it -- was the Constantine firm
17 taking the lead in trying to determine what all the relevant
18 facts were from Liberty?

19 THE WITNESS: Yes, I think so.

20 JUDGE SIPPEL: Were they -- were they feeding you
21 information as they acquired it?

22 THE WITNESS: I'm not sure that that's accurate.
23 I think --

24 JUDGE SIPPEL: Well my choice of words but I mean
25 were they --

1 THE WITNESS: I think --

2 JUDGE SIPPEL: Were they from time to time
3 periodically giving you points of information as they
4 determined the information which would be relevant to
5 disclosure?

6 THE WITNESS: In connection with the preparation
7 of the documents I think that's correct.

8 JUDGE SIPPEL: Do you have a recollection of that?

9 THE WITNESS: In terms of preparing the documents,
10 yes.

11 JUDGE SIPPEL: So you were relying -- I -- what
12 I'm hearing you say is that you were relying quite heavily
13 upon the facts that you were learning from the Constantine
14 law firm in connection with the June 16 letter?

15 THE WITNESS: Correct.

16 JUDGE SIPPEL: More so than perhaps Mr. Nourain?

17 THE WITNESS: Well I was relying on information
18 from him as well to the extent that he was explaining.

19 JUDGE SIPPEL: Well are you finished with that
20 sentence?

21 THE WITNESS: Yes. I --

22 JUDGE SIPPEL: My question was Mr. Nourain's
23 reliability as a source of information under -- under a
24 doubt or under a cloud on June 16th? I'm talking about from
25 yourself from your own vantage point?

1 THE WITNESS: From my own vantage point?

2 JUDGE SIPPEL: Yes, sir.

3 THE WITNESS: No I don't believe so. Perhaps it
4 could have been clarified set out a little better but Time
5 Warner by that time had -- had raised the issue and that's
6 the topic of Section One.

7 JUDGE SIPPEL: Right. No what I'm asking about is
8 -- is the source that you -- the source of the information
9 that you rely upon to report to the Commission in your June
10 16th letter. Now you've identified this source, sources the
11 clearest that I can recall your testimony being was one Mr.
12 Nourain and two the Constantine firm.

13 And my question is with respect to which one were
14 you relying upon more than the other if that's true?

15 THE WITNESS: Yes, I think the Constantine firm
16 had a large hand in the preparation of this document.

17 JUDGE SIPPEL: All right. Now I don't know if
18 this is of any help to you, Mr. Beckner, but if you have
19 some specific questions that you want to ask this witness,
20 I'll stay with this line. But otherwise I think we ought to
21 move on to something else.

22 MR. BECKNER: All right, Your Honor.

23 JUDGE SIPPEL: Do you want to take ten minutes to
24 take a look at your materials and come back or do you have
25 something that you can move right on to?

1 MR. BECKNER: What I'd like to do if its all right
2 with you is to excuse the witness.

3 JUDGE SIPPEL: You want to make --

4 MR. BECKNER: And -- and

5 JUDGE SIPPEL: You want to discuss this?

6 MR. BECKNER: And I'd like to tell you where I
7 want to go and then we can, you know, we can either I'll be
8 either allowed to go there or I won't but I think it's
9 easier if we do that out of the witness' presence.

10 JUDGE SIPPEL: All right. Well the witness has
11 been on the stand since a quarter past one. It's 2:30.
12 We'll -- let's do this for five minutes without the witness
13 being in the room and then we'll come back at a quarter of
14 three. All right?

15 MR. BECKNER: That's fine sir.

16 JUDGE SIPPEL: Can you excuse us please Mr. Barr?

17 MR. BECKNER: Your Honor, what I would like to ask
18 the witness with respect to the June 16 letter, Exhibit 21
19 is essentially the same line that I asked with respect to
20 the surreply. And that is is that he has a person who is
21 telling him I thought that STA requests were filed.

22 His firm -- Mr. Barr's firm is the firm that would
23 have filed those requests. He can go down the hall to Mr.
24 Lehmkuhl and say did you ever tell Mr. Nourain that you were
25 filing STA requests? And Mr. Lehmkuhl would presumably have

1 an answer to that question. Because in fact we'd asked him
2 that question here.

3 JUDGE SIPPEL: Well I'm not sure exactly where
4 does that take anything? I mean you've got a very
5 interesting point there. Let me be a little more passive
6 about this. You go ahead and tell me what you want.

7 MR. SPITZER: Your Honor, I guess I'm a bit
8 confused about how to use yesterday's analogy, that advances
9 the ball. Only in the sense that the letter itself on its
10 face said that those assumptions on Mr. Nourain's part were
11 mistaken.

12 So this is, the effort was not in this letter to
13 understand how Mr. Nourain obtained this what is the FCC is
14 being told is a mistaken assumption. The effort here was
15 not to say Nourain believed X and he believed it based upon
16 these 15 sources or one source whatever the case may have
17 been.

18 The effort was to explain why Nourain activated a
19 path. And so I'm not sure why this line of inquiry is
20 relevant to -- to either this hearing or to how Mr. Barr
21 drafted the document that's before us.

22 JUDGE SIPPEL: What do you have to say to that?

23 MR. BECKNER: The issue is not simply whether or
24 not Mr. Nourain's assumption was mistaken but whether or not
25 it was unfounded. You know I can have a mistaken belief

1 that -- that I can fly but, you know, unless I have a basis
2 for having that belief, you know, it goes to my state of
3 mind, my credibility.

4 And in Mr. Nourain's case if -- if his assumption
5 I mean obviously was mistaken I mean it's a matter of public
6 record that no STA requests were filed. Liberty didn't have
7 to tell the Commission that. But if the assumption was
8 unfounded in that -- in that Mr. Nourain to say
9 hypothetically was speaking with Mike Lehmkuhl once a week
10 and Mike Lehmkuhl never told him that STA requests were
11 filed and never sent him copies of STA requests as filed.

12 Then that goes to the question of his credibility
13 that he's saying well I believe this even though I had no
14 reason to believe this.

15 MR. SPITZER: Your Honor, I'm still missing
16 something. This -- the assumptions were unfounded. The
17 document says they were unfounded. We have examined Mr.
18 Nourain. I don't think there's anybody in this room here, I
19 know we'll all put it in our proposed findings later on who
20 would disagree with the proposition that these were
21 unfounded propositions.

22 We've examined Mr. Lehmkuhl about his
23 conversations with Mr. Nourain. Why we're going to try to
24 examine Mr. Barr about a document he wrote in May which --
25 which says on its face that Nourain had mistaken assumptions

1 to ask him whether he spoke to Lehmkuhl about whether
2 Lehmkuhl spoke to Nourain to prove whether Nourain's
3 assumptions are mistaken seems just a little bit not like a
4 line but a ziggurat.

5 I mean I don't -- I don't see.

6 MR. WEBER: Your Honor, I think I may understand
7 where Mr. Beckner wants to go with this. Because this is a
8 character proceeding, one question will be "is in fact this
9 Mr. Nourain's state of mind at the time? Did he really
10 believe that STA requests were being filed?"

11 And if -- what Mr. Beckner is trying to get at if
12 Mr. Lehmkuhl was having these daily conversations with or
13 weekly conversations with him and through that Mr. Nourain
14 was able to learn that STA requests indeed were not being
15 filed, then that would go against Mr. Nourain's testimony.

16 And I'm not real I mean I -- I am not definitely
17 sure that this inquiry will get us to that point, but it is
18 indeed an avenue and -- and I guess the Bureau would have to
19 argue that there is some relevance there although I'm not
20 convinced that, you know, it'll get us to that point.

21 JUDGE SIPPEL: All right.

22 MR. WEBER: That there's any chance it'll lead to
23 the point that Mr. Beckner is reaching for.

24 MR. SPITZER: I'm sorry. It just strikes me that
25 having had Mr. Nourain as a witness and Mr. Lehmkuhl as a

1 witness that those questions were posed and those were the
2 direct questions and answers that bore on this. The role of
3 this document as the means to get to that question seems so
4 tangential and circuitous as to really make me wonder about
5 the value.

6 JUDGE SIPPEL: That's the point -- that's the
7 point that I'm getting at. And this is why -- I can
8 understand you asking this witness whether or not in the
9 context of preparing this document or at or about this time
10 he was getting information -- he talked to Mr. Lehmkuhl
11 about what Mr. Lehmkuhl was getting from Nourain. Or what
12 he did from his own standpoint to investigate the situation
13 in June to find out from -- what was going on between the
14 information passing back and forth between those two
15 individuals.

16 But to direct his attention to this document and
17 then try and have him -- and have him extrapolate back along
18 your wave length to those -- it's going to just -- I don't
19 think it can get done.

20 I've asked this witness. I've already asked this
21 witness who he's relied upon for his information. He came
22 up very clearly. He said who it was. The Constantine firm
23 is doing this investigation. Everybody knows that in June.

24 So why not go to the best source of your
25 information? That doesn't answer the ultimate question that

1 you have but you can ask him that question when he comes
2 back. He's got information that he's getting from the
3 Constantine law firm. He's getting information from
4 Nourain. What is he getting from Mr. Lehmkuhl?

5 And you can ask him those questions but I -- don't
6 -- don't please don't do it in the context of -- of sentence
7 in the document. You can -- you can prefer that in findings
8 based on what his answers are but I mean he's on notice. He
9 knows where you're going.

10 MR. BECKNER: All right.

11 JUDGE SIPPEL: Let's take a -- we're going to come
12 back at a quarter of three a little bit after a quarter of
13 three.

14 MR. BECKNER: Thank you, Your Honor.

15 JUDGE SIPPEL: We're back on the record.

16 BY MR. BECKNER:

17 Q Okay, Mr. Barr before we took the break I think
18 you identified that you as sources of information that you
19 used to prepare Exhibit 21 of course there was Mr. Nourain
20 and I think you identified the Constantine firm as another
21 source of information.

22 And I just want to clear up one thing. Mike
23 Lehmkuhl was not a source of information for this filing?

24 A I didn't say that.

25 Q Okay. He was a source of information for this

1 filing?

2 A I didn't say that either.

3 JUDGE SIPPEL: Just ask him the question straight
4 out.

5 Q Was he a source of information for this filing?

6 A I don't specifically recall. He may have been.
7 He may not.

8 JUDGE SIPPEL: What would -- what causes you to be
9 doubtful about that? Here he's practicing law just down the
10 hall from you and he's the one that's in charge of this
11 account. I mean in charge in the sense that he's doing most
12 of the work. He would be the most logical source of
13 information it would seem to me.

14 At least -- maybe not in the first instance, but
15 at least in double checking or confirming and I don't mean
16 to say that he would be reviewing your draft work. I'm
17 saying that just for -- just raw data, raw basic facts.
18 Factual information.

19 THE WITNESS: I agree with your statement, Your
20 Honor, but the simple fact is I just don't have a specific
21 recollection.

22 JUDGE SIPPEL: Okay. I -- I -- Mr. Beckner? He
23 doesn't recall. I think we should move on to something
24 else.

25 MR. BECKNER: I will.

1 BY MR. BECKNER:

2 Q I want you to take a look at the document that's
3 been marked as Exhibit 19, Time Warner Cablevision Exhibit
4 19. It's the Liberty reply to opposition that requests for
5 Special Temporary Authority.

6 JUDGE SIPPEL: What's the date on this document?
7 This is May 26th.

8 MR. BECKNER: May 26th, yes.

9 BY MR. BECKNER:

10 Q Do you have that in front of you, sir?

11 A Yes, I do.

12 Q Okay. Now this document does this document in
13 itself mention the fact that the paths for which STA is
14 being requested are already in operation?

15 MR. SPITZER: Your Honor, the document will speak
16 for itself. If Mr. Beckner wants to represent that it
17 doesn't we'll accept that representation unless he wants the
18 witness to read the document carefully for some other
19 purpose.

20 JUDGE SIPPEL: Do you have a question? Are you
21 going to ask this witness a question about the --

22 MR. BECKNER: Well I mean I don't want to testify
23 about the document. It doesn't appear to me to say that.
24 But this gentlemen signed it and I thought that perhaps he
25 could identify for me that I might be wrong. In fact --

1 JUDGE SIPPEL: All right we'll let him complete
2 his review of the document and he'll answer your question.

3 MR. BECKNER: Because I mean that's going to be
4 the basis of some follow up questions.

5 JUDGE SIPPEL: That's perfectly appropriate.
6 Let's go off the record until he finishes reading the
7 document. Back on the record.

8 THE WITNESS: The document doesn't appear to
9 reference unauthorized service.

10 BY MR. BECKNER:

11 Q Okay now of course I'm not trying to be tricky
12 here. Of course before this document was filed the surreply
13 was filed which identify unauthorized paths. Correct?

14 A That's true. This document was intended to be
15 responsive to arguments made by Time Warner in opposition to
16 the STA requests.

17 Q Right.

18 A And that was the purpose.

19 Q Now I want to direct your attention to page 3 of
20 Exhibit 19. In which this is the page that has a table on
21 it. Okay and there's a statement here above the table
22 "additionally a number of Liberty's contractual obligations
23 are imperiled as a result of Time Warner filings. Following
24 is a sample of locations which Liberty has contracts to
25 serve, et cetera. Do you see that?

1 A Yes.

2 Q Okay. At the time that you wrote this document
3 was your -- did you know that in fact Liberty was already
4 serving all these addresses in this table?

5 A No this information would have come from the
6 Constantine firm. Because we didn't have the contract
7 information.

8 Q Well these -- these addresses were listed in the
9 surreply were they not? That's Exhibit 18. There's a list
10 on page two of the exhibit.

11 A Correct.

12 Q Okay. And -- and the argument here that you were
13 making was is that there was a contractual commitment that -
14 - that required urgent action on the STA requests for these
15 buildings among others, right?

16 A I think this was prepared with -- with the
17 knowledge that the Commission had already been informed that
18 service was being provided to these locations.

19 Q Well if service was already being provided to
20 these locations what was the relevance of making an argument
21 that -- that a contractual commitment was going to be
22 jeopardized if STA requests weren't granted?

23 A Well I think that's the point. If Liberty's not
24 providing service then they're in violation of the contract.

25 Q Well but they were providing service. They -- we

1 just established that. For the buildings in this table they
2 were providing service. They told the Commission that. My
3 question is what is the point of telling the Commission in
4 Exhibit 19 that the contract requires them to get an STA
5 when in fact they were already providing service to these
6 addresses?

7 A Right but if they were -- if they were turned off
8 then Liberty would be in violation of its contracts because
9 it wouldn't be providing service as it was required to under
10 the contracts.

11 Q There's no mention of the turning off conflict in
12 this paper in this paper is there?

13 A No but I think you have to place it in context
14 with the previously filed surreply and it was our
15 understanding at this time that I think that all of these
16 papers were being acted upon by one individual up in
17 Gettysburg and that he had all this information at his
18 fingertips.

19 Q But, but in the event that it was not all being
20 handled by one person in Gettysburg, you didn't tell the
21 reader of Exhibit 19 to -- I'm sorry Exhibit 18 -- to take a
22 look at the surreply for more information.

23 A It does not reference the surreply.

24 Q Okay and finally the table here talks about a
25 contract date and then -- then it references a contractual

1 commitment to install. Do you know why the table also
2 doesn't tell the Commission when in fact service began at
3 these buildings?

4 A It wasn't the purpose of this document. The
5 purpose of this document was to respond to Time Warner's
6 oppositions to the STA requests.

7 Q Well now for example, 2727 Palisades at the bottom
8 of the list, is a contract date of February 13, 1995. And
9 according to Appendix A of the HDO, service began in that
10 building on April 24th 1995. Well within the 120 days which
11 it was obligated to install under the contract.

12 You don't think the Commission was -- should have
13 been advised of that?

14 A I think the focus -- as I've said before, the
15 focus of this document was to be responsive to Time Warner's
16 allegations. It wasn't intended to be an affirmative
17 disclosure of service commencement as was the May 19
18 document.

19 JUDGE SIPPEL: You mean the May 17th?

20 THE WITNESS: May 17th, excuse me.

21 BY MR. BECKNER:

22 Q So I take it that you're saying that its not
23 relevant to the argument that I "a number of Liberty's
24 contractual obligations are imperiled as a result of Time
25 Warner filings." The information that in fact some of those

1 service obligations are being met with the buildings listed.
2 That's not relevant to the argument you're making?

3 MR. SPITZER: I'm going to object to his asking
4 that.

5 JUDGE SIPPEL: No I'm going to permit. I'm going
6 to overrule that objection. You go ahead with this line.

7 THE WITNESS: I think that information was already
8 seen as being in the hands of the Commission.

9 Q Well the information as to when service was
10 commenced at these buildings was in the hands of the
11 Commission?

12 A Well that service had already -- yes. Liberty
13 had previously disclosed that serviced had commenced to that
14 location.

15 Q But it had not disclosed the particular date that
16 serviced had commenced had it? As of May 26th?

17 A No, that's true.

18 Q All right.

19 A I think the documents will speak to that the first
20 day. That was information was given to the Commission was
21 in the June 16th document.

22 Q Okay. Now the -- the Exhibit -- the reply to
23 opposition the exhibit we've been looking at, Exhibit 19 is
24 that a document which was reviewed in draft by someone
25 outside of your firm?

1 A Yes, it's fair to say that all of these documents
2 were reviewed by counsel outside of my firm.

3 Q All right. Do you have any specific recollection
4 of any changes that were made in this document as a result
5 of that review?

6 A My recollection is that people from the
7 Constantine firm contributed greatly to this document's
8 preparation.

9 Q I'm sorry contribute greatly you say?

10 A Yes.

11 Q Okay. Can you identify any specific area where
12 they made such a contribution?

13 A Well for example the information contained on page
14 three because we don't have that information at our firm.

15 Q All right.

16 A And that's just one example.

17 Q Okay. And -- and with respect to that
18 information, I -- did you -- did you have any information as
19 of the time you prepared this pleading as to when service
20 began at any of these buildings?

21 A I don't believe I did.

22 Q All right. Do you know whether or not the
23 Constantine firm did?

24 A I don't know.

25 Q All right.

1 JUDGE SIPPEL: Are we ready to move to another
2 document?

3 MR. BECKNER: Yeah I'm just trying to see if I
4 have any more I want to, Your Honor.

5 JUDGE SIPPEL: Very fine. Off the record. Back
6 on the record. Mr. Beckner?

7 MR. BECKNER: Your Honor, I don't have any more
8 questions of this witness at this time.

9 JUDGE SIPPEL: Mr. Holt?

10 MR. HOLT: Your Honor, can I take a moment to
11 review my notes?

12 JUDGE SIPPEL: Well we'll take a five minute --
13 let's take a five minute recess. We'll go off the record.
14 On the record.

15 MR. HOLT: Thank you, Your Honor.

16 JUDGE SIPPEL: Mr. Holt.

17 CROSS EXAMINATION

18 BY MR. HOLT:

19 Q Good afternoon, Mr. Barr. I'm Christopher Holt,
20 counsel for Cablevision of New York City phase one. I just
21 have a few questions for you.

22 I'd like to begin by asking you after the time
23 that you received the initial petition to deny by Time
24 Warner, in January of 1995, did you have occasion to discuss
25 the impact of that petition the likely effect of that

1 petition on Liberty's pending requests for FCC
2 authorizations with Mr. Lehmkuhl?

3 A I don't -- I'm pretty sure I told Michael that the
4 petition had been filed. Probably gave him a copy of the
5 petition. I think -- I can't recall that I had that type of
6 specific conversation with Mr. Lehmkuhl but I'm certain he
7 understood that.

8 Q And your -- I take it that from your response you
9 were certain he understood what the ---

10 A That -- that a petition to deny would engender
11 delay in action on an application for authorization.

12 Q At this April 27th meeting that you attended at
13 the Ginsberg firm offices, do you recall taking notes of the
14 -- the meeting?

15 A I may have but I don't specifically recall.

16 Q During the course of document production or in
17 this case you reviewed your files I was wondering whether or
18 not you had materials relevant to this proceeding did you
19 not?

20 A Yes I -- I looked at some of the files Mr.
21 Lehmkuhl did, my paralegal did, Jack Jeckabowski did. It
22 was a collective effort.

23 Q Did you review the files in anticipation of your
24 testimony here today?

25 A No.

1 Q When was the last time you reviewed the Pepper &
2 Corazzini files in conjunction with this proceeding?

3 A That probably would have been in the course of the
4 document production.

5 Q If you had taken notes of the meeting that you
6 attended on the 27th would you have sent those notes to your
7 file?

8 MR. SPITZER: Objection.

9 JUDGE SIPPEL: Well if he's -- if the witness
10 records. He said he probably took notes so. I'll overrule
11 the objection.

12 A I'm not sure I said I probably took notes, I might
13 have.

14 JUDGE SIPPEL: Right. I understand that.

15 A Yeah I think if -- it's my ordinary practice when
16 I take notes about something to place that -- to place such
17 an item in a file.

18 Q Do you recall during the course of reviewing your
19 files in the production discovery in these proceedings
20 coming across notes of your conversation or notes of the
21 meeting that you attended on April 27th?

22 A No I don't have specific recollection, but -- by
23 the same token I wasn't -- Mr. Lehmkuhl and Mr. Jeckabowski
24 did more of the base look through the files identify
25 responsive documents than I did. I did not look at every

1 Liberty file during the course of the document production.

2 I looked at some.

3 I reviewed, I think, some of the files that Mr.

4 Lehmkuhl and Jeckabowski had gone through in an effort to

5 see if they were following my instructions.

6 (Continued on next page.)

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1 Q Well, I have here what has been identified as a
2 privilege log that was produced by Liberty. There is an
3 entry here which indicates you as an author, recipients to
4 file. There is no date associated with the documents, but
5 it is described as handwritten notes of conversation with L.
6 Constantine, containing confidential legal communication we
7 serviced to various buildings. Does that refresh --

8 MR. SPITZER: I'm sorry, but can you indicate what
9 page?

10 MR. HOLT: Oh, I'm sorry. Page 10 of the
11 privilege document.

12 (Brief Pause.)

13 BY MR. HOLT:

14 Q Does that refresh your recollection as to whether
15 or not you took notes at the April 27th meeting?

16 A Can I have a look at the log?

17 MR. HOLT: Sure. The third box from the bottom.
18 Let me point out to you that the dates of the documents
19 listed in this log do not appear to be in any sequence.

20 THE WITNESS: I gleaned that. No, it really
21 doesn't refresh my recollection.

22 BY MR. HOLT:

23 Q Do you recall taking notes of a conversation with
24 Mr. Constantine concerning service to various buildings?

25 A Not particularly. You know, if I saw the notes, I

1 might be able to. I mean, that could possibly refresh my
2 recollection, but this doesn't do it.

3 Q If I recall correctly, you met Mr. Constantine on
4 one occasion unrelated to the April 27th meeting?

5 A Right.

6 Q And the April 27th meeting was the second occasion
7 in which you met Mr. Constantine?

8 A Right.

9 Q Between the time of those two face-to-face
10 meetings did you have occasion to speak to Mr. Constantine
11 directly?

12 A I believe so.

13 Q Regarding the subject of service to various
14 buildings?

15 A Apparently so.

16 Q In anticipation of litigation?

17 A It was in connection with the litigation, the
18 litigation ongoing.

19 Q Okay. So, let me make sure that I understand the
20 date that you believe that you first met Mr. Constantine.
21 What date is that to the best of your recollection?

22 A I think it was in late January.

23 Q So, between late January and April 27th, 1995; is
24 that the relevant time period, January 1995 through April
25 27th, 1995?